

William H. Schwarzschild, III - VSB No. 15274

W. Alexander Burnett – VSB No. 68000

WILLIAMS, MULLEN

Two James Center, 16th Floor

1021 East Cary Street

Post Office Box 1320

Richmond, Virginia 23218-1320

Phone: 804.783.6489

FAX: 804.783.6507

[tschwarz@williamsmullen.com](mailto:tschwarz@williamsmullen.com)

[aburnett@williamsmullen.com](mailto:aburnett@williamsmullen.com)

*Counsel for Dollar Tree Stores, Inc.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)**

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In re: : Chapter 11  
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CIRCUIT CITY STORES, INC., *et al.*, : Case No. 08-35653 (KRH)  
:  
Debtors. : (Jointly Administered)  
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**MOTION FOR LEAVE OF COURT TO ATTEND HEARING BY TELEPHONE**

Dollar Tree Stores, Inc. (“Dollar Tree”), a creditor in the above-captioned chapter 11 cases, by and through its undersigned counsel, and pursuant to the Court’s Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures, hereby moves for leave of Court to attend the June 23, 2009 hearing by telephone. In support thereof, Dollar Tree states as follows:

1. On November 10, 2008 (the “Petition Date”), the above-captioned debtors and debtors-in-possession (collectively, “Debtors”), filed voluntary petitions in this Court for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).
2. Dollar Tree is the sublessee of the premises located at 340 West Army Trail Road in Bloomingdale, Minnesota.

3. On June 10, 2009, this Court entered an Order Authorizing Debtors to Assume, Assign and Sell Unexpired Lease and Sublease of Non-Residential Real Property entered on June 10, 2009 (the “Assignment Order”) (Docket No. 3575) assigning numerous leases to Creative Realty Management LLC (the “Assignee”). The Assignee has alleged that the Debtors have breached the Assignment Order, stated that it would not close, and refused to wire the appropriate funds.

4. On June 17, 2009, the Debtors filed a Motion For Order (I) Pursuant To 11 U.S.C. § 105 And Fed. R. Bankr. P. 9020 (A) Finding Creative Realty Management LLC in Civil Contempt and (B) Compelling Compliance with Order and Imposing Sanctions for Violations Thereof, or (II) Granting the Debtors Relief under Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60 from Order Assuming, Assigning, and Selling Certain Leases to Creative Realty Management LLC (the “Motion”) (Docket No. 3664).

5. On June 18, 2009, this Court ordered an Order Setting an Expedited Hearing for June 23, 2009 to hear the Motion.

6. Dollar Tree’s lead counsel, Scott R. Kipnis and Nicholas B. Malito, have been representing Dollar Tree in its discussions with Circuit City’s counsel and have a unique and complete understanding of the facts and circumstances related to the issues raised by Dollar Tree in connection with the Motion. Mr. Kipnis and Mr. Malito have been authorized to appear pro hac vice in this case.

7. On November 13, 2008, the Court entered an Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (the “Order”). On page 5 of Exhibit A, the Order states:

(g) Upon request, the Court may allow counsel to listen to a hearing by telephone. If a matter is contested, counsel must attend in person, unless leave of the court is granted on a case by case basis.

8. Mr. Kipnis and Mr. Malito will not be able to appear in person at the hearing on the Motion noticed for June 23, 2009, and Dollar Tree respectfully asks for leave of court pursuant to the Order so that they may appear by telephone with Virginia counsel present in the courtroom.

9. Based on Mr. Kipnis and Mr. Malito's unique knowledge of the facts relating to the lease that is the subject of the Motion, Dollar Tree's interests as a creditor and party in interest would be served by allowing Mr. Kipnis and Mr. Malito to appear by telephone.

WHEREFORE, Dollar Tree Stores, Inc. respectfully requests that this Court grant its Motion and enter an Order substantially in the form annexed hereto permitting Scott R. Kipnis and Nicholas B. Malito to appear and be heard by telephone at the hearing on June 23, 2009 on behalf of Dollar Tree Stores, Inc. and grant such other relief as necessary and appropriate.

Dated: Richmond, Virginia  
June 19, 2009

**DOLLAR TREE STORES, INC.**

*/s/ William H. Schwarzschild, III*

By: \_\_\_\_\_  
Of Counsel

William H. Schwarzschild, III - VSB No. 15274  
W. Alexander Burnett – VSB No. 68000  
WILLIAMS, MULLEN  
Two James Center, 17th Floor  
1021 East Cary Street  
Post Office Box 1320  
Richmond, Virginia 23218-1320  
Phone: 804.783.6489  
FAX: 804.783.6507  
[tschwarz@williamsmullen.com](mailto:tschwarz@williamsmullen.com)  
[aburnett@williamsmullen.com](mailto:aburnett@williamsmullen.com)

*Counsel for Dollar Tree Stores, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2009, a true and complete copy of the foregoing Motion for Leave of Court to Attend Hearing by Telephone was served upon all necessary parties electronically using the Court's ECF System, was sent by electronic mail to [circuitcityservice@mcguirewoods.com](mailto:circuitcityservice@mcguirewoods.com) and [project.circuitcity@skadden.com](mailto:project.circuitcity@skadden.com), and was sent by first class mail, postage prepaid, to the entities at the addresses indicated below:

**Dion W. Hayes**  
McGuireWoods LLP  
One James Center, 901 E. Cary St.  
Richmond, VA 23219  
[dhayes@mcguirewoods.com](mailto:dhayes@mcguirewoods.com)

**Douglas M. Foley**  
McGuireWoods LLP  
9000 World Trade Center, 101 W. Main St.  
Norfolk, VA 23510  
[dfoley@mcguirewoods.com](mailto:dfoley@mcguirewoods.com)

**Ian S. Fredericks**  
Skadden Arps Slate Meagher & Flom LLP  
One Rodney Sq.  
PO Box 636  
Wilmington, DE 19899  
[ian.fredericks@skadden.com](mailto:ian.fredericks@skadden.com)

**Chris L. Dickerson**  
Skadden Arps Slate Meagher & Flom LLP  
333 West Wacker Drive  
Chicago, IL 60606  
[chris.dickerson@skadden.com](mailto:chris.dickerson@skadden.com)

**Robert J. Feinstein**  
Pachulski Stang Ziehl & Jones LLP  
780 Third Ave. 36th Floor  
New York, NY 10017  
(212) 561-7710  
[rfeinstein@pszjlaw.com](mailto:rfeinstein@pszjlaw.com)

**Brad R. Godshall**  
Pachulski Stang Ziehl & Jones, LLP  
10100 Santa Monica blvd, 11th Floor  
Los Angeles, CA 90067-4100  
[bgodshall@pszjlaw.com](mailto:bgodshall@pszjlaw.com)

**Jeffrey N. Pomerantz**  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., Suite 1100  
Los Angeles, CA 90067  
[jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)

**John D. Fiero**  
Pachulski Stang Ziehl & Jones LLP  
150 California Street, 15th Floor  
San Francisco, CA 9411-4500  
[jfiero@pszjlaw.com](mailto:jfiero@pszjlaw.com)

**Lynn L. Tavener**  
Tavener & Beran, PLC  
20 North Eighth Street, Second Floor  
Richmond, VA 23219  
[ltavener@tb-lawfirm.com](mailto:ltavener@tb-lawfirm.com)

**Paula S. Beran**  
Tavener & Beran, PLC  
20 North Eighth Street, Second Floor  
Richmond, VA 23219  
[pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com)

**Robert B. Van Arsdale**  
Office of the U. S. Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219  
[Robert.B.Van.Arsdale@usdoj.gov](mailto:Robert.B.Van.Arsdale@usdoj.gov)

**Gregg Galardi, Esq.**  
Skadden Arps, Slate Meagher & Flom LLP  
One Rodney Square  
Box 636  
Wilmington, Delaware 19899

/s/ William H. Schwarzschild, III